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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

LAURA M. SOLIS, Plaintiff and Appellant, v. EMC MORTGAGE et al., Defendants and Respondents.	B234772 (Los Angeles County Super. Ct. No. KC060076)

APPEAL from a judgment of the Superior Court of Los Angeles County. Steven Blades, Judge. Affirmed.

Laura M. Solis, in pro. per., for Plaintiff and Appellant.

AlvaradoSmith, John M. Sorich, S. Christopher Yoo, Lauren M. Takos, for Defendants and Respondents EMC Mortgage LLC and Wells Fargo Bank.

Plaintiff Laura M. Solis sued EMC Mortgage LLC (EMC), Wells Fargo Bank, National Association as Trustee for the Certifcateholders of Structured Asset Mortgage Investments II Inc., Bear Stearns Mortgage Funding Trust 2007-AR3 Mortgage Pass Through Certificates, Series 2007-AR3 (Wells Fargo), and Quality Loan Service Corporation (Quality), after she defaulted on a secured real estate loan and lost her property to foreclosure. In her complaint, Solis asserted claims for declaratory relief, negligence, fraud, intentional infliction of emotional distress, "promissory note," and rescission. EMC and Wells Fargo demurred to the complaint. The trial court sustained the demurrer without leave to amend. We affirm the judgment.[1]

FACTUAL AND PROCEDURAL BACKGROUND

In November 2010, Solis filed a complaint against EMC, Wells Fargo, and Quality. The complaint attached and incorporated by reference a number of exhibits, including copies of recorded documents. We begin our discussion of the background with the facts set forth in these documents. (*Boschma v. Home Loan Center, Inc.* (2011) 198 Cal.App.4th 230, 235 (*Boschma*)). Solis executed a deed of trust on January 3, 2007. The deed of trust identified the lender as Lending 1st Mortgage, LLC (Lending 1st), the trustee as Fidelity National Title Company (Fidelity), and Mortgage Electronic Registration Systems, Inc. (MERS) as the nominee of the beneficiary. Lending 1st loaned Solis $348,000. On November 17, 2009, Fidelity and MERS as nominee for Lending 1st, substituted EMC as trustee in place of Fidelity. On April 27, 2010, Quality, acting as agent for the beneficiary, recorded a notice of default. The notice of default indicated that to find out the amount owing, or to arrange for payment to stop the foreclosure, the borrower was to contact EMC, care of Quality, and provided an address. On May 14, 2010, MERS assigned all beneficial interest under the deed of trust to Wells Fargo. On June 8, 2010, Wells Fargo, acting through EMC, its "attorney in fact,"

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[1] Quality did not join the Wells Fargo and EMC demurrer. The trial court order sustaining the demurrer without leave to amend applied only to the Wells Fargo and EMC demurrer, and the subsequent judgment was entered in favor of Wells Fargo and EMC. Quality is not a party to this appeal.

substituted Quality as trustee. On July 28, 2010, Quality recorded a notice of trustee's sale. On October 26, 2010, a trustee's deed upon sale was recorded. Wells Fargo was identified as the foreclosing beneficiary and grantee under the deed.

The complaint alleged that in January 2007, Solis acquired a loan with Lending 1st Mortgage, LLC, for $348,000. Solis was unable to make regular payments and defaulted on the loan. Solis applied for several loan modifications but was denied. Solis then studied her loan documents and "found many irregularities." She sent various entities requests for certified copies of the original loan documents, and notices to "cease and desist" actions relating to the loan. The complaint attached and referenced exhibits that appeared to be these letters or notices. In one exhibit, Solis alleged Lending 1st and EMC "had not put any lawful consideration into" the promissory note, and "never put up, nor used, any money of its own to fund the note/mortgage instrument." Solis further alleged that she was "never provided full, complete, and truthful disclosure regarding all financial instruments [she] was compelled to sign, nor fully apprise [*sic*] of the very nature and exact particulars of the bank's entire loan process."[2] Solis contended Lending 1st and EMC "stole [her] note/mortgage/Loan/Trust Deed," and she purported to "cancel" her mortgage. In one letter, Solis demanded, among other things, that the defendants: "Show me what do I owe this money for; and what purchases did I make or what Services did I receive"; "Provide me with letters or proof that I agreed to pay what you say I owe"; "Provide me with verification or judgment of any debts owed" ; "Prove that the Statute of Limitations has not expired on this debt"; "Show me that you are authorized to collect this debt on behalf of the Original Creditor"; and "Give me a copy of the original signed loan or credit card application with the Original Creditor."

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[2] The exhibits also include a full reconveyance recorded by EMC as trustee in November 2009, and subsequent correspondence from EMC's attorneys indicating the reconveyance was erroneously recorded. Although these documents were attached to the complaint as exhibits, it does not appear that any of Solis's claims are based on the reconveyance or its cancellation.

The complaint alleged EMC "forwarded copies of certified copies from escrow of the note & deed of trust," but "EMC didn't certify those copies therefore the copies are not valid." The complaint further alleged EMC "failed to validate the loan," "failed to show consideration was given to [Solis]," and "failed to show the Sale contract which shows they bought the loan." The complaint alleged Quality had no authority to pursue foreclosure, the defendants did not own her loan, and they were unable to prove any ownership or interest in her property. Solis was forced to miss work to "prepare documents to be able to commence an action against [defendants]," and she suffered "emotional distress." The complaint asserted the defendants had no authority to "cloud the title of the property"; they had not "proven ownership"; and they had injured Solis by "using agents and other companies to foreclose in her."

Defendants EMC and Wells Fargo (collectively defendants) demurred to the complaint. They sought judicial notice of several documents in support of the demurrer, including many of the same recorded documents that Solis attached to the complaint as exhibits. Defendants' demurrer challenged the entire complaint as failing to state a claim. The trial court's tentative order was to sustain the demurrer, but the court indicated it would hear from Solis why leave to amend should be granted and as to what causes of action.

At the February 17, 2011 hearing on the demurrer, the court asked Solis if she wished to file an amended complaint. Solis responded: "As you can see, all the evidence that supports all the fraud and all the things that they've been doing. They foreclosed my house behind lies and misleading information. Quality Loan Service was only pursuing to collect a debt, and they were –foreclosed my house." The court explained that it could sustain the demurrer with or without leave to amend, and that if Solis did not think she could allege any different facts, the order would be to sustain without leave. The court asked Solis if she understood. Solis replied: "Kind of. But I would like for you to revise my case again because there is enough evidence for everything." The court indicated it would not "revise" her case, and that she would have to do so. The court asked if Solis wanted an opportunity to add facts the court had indicated were missing. Solis answered

she wanted the opportunity if she had no other choice. The court told Solis she did have a choice, and she could tell the court she could not add any additional facts. This exchange followed:

"[Solis]: There is enough facts in here.

[Court]: I don't think so. I disagree with you.

[Solis]: I object to your decision.

[Court]: Do you have any additional facts you can add?

[Solis]: They're all here."

The court sustained the demurrer without leave to amend. On March 21, 2011, the trial court entered a judgment in favor of defendants. This appeal followed.

DISCUSSION

I. The Trial Court Properly Sustained the Demurrer

"A demurrer tests the legal sufficiency of the complaint. We review the complaint de novo to determine whether it alleges facts sufficient to state a cause of action. For purposes of review, we accept as true all material facts alleged in the complaint, but not contentions, deductions or conclusions of fact or law. We also consider matters that may be judicially noticed. (*Blank v. Kirwan* (1985) 39 Cal.3d 311, 318.)" (*Hamilton v. Greenwich Investors XXVI, LLC* (2011) 195 Cal.App.4th 1602, 1608-1609, fn. omitted (*Hamilton*).) Exhibits attached to a complaint and incorporated by reference may also be considered as supplying the complaint's allegations. (See *Del Mar Beach Club Owners Assn. v. Imperial Contracting Co.* (1981) 123 Cal.App.3d 898, 908.) However, "to the extent the factual allegations conflict with the content of the exhibits to the complaint, we rely on and accept as true the contents of the exhibits and treat as surplusage the pleader's allegations as to the legal effect of the exhibits. [Citations.]" (*Barnett v. Fireman's Fund Ins. Co.* (2001) 90 Cal.App.4th 500, 505; *Boschma, supra,* 198 Cal.App.4th at p. 235.)

A. Arguments in Solis's Opening Brief

In her opening brief on appeal, Solis argues the court exceeded its jurisdiction by "bypass[ing] all procedure," ruling without considering Solis's filings, and failing to conduct proceedings in accordance with the rules of court. Although Solis's statements

are accompanied by citations to the record, the citations do not support her claims. We have reviewed the record in this case and find no support for Solis's contentions that the court failed to consider her complaint or opposition to the demurrer, or that the court did not comply with the applicable rules of civil procedure or rules of court. Solis references "contempt," but there appears to have been no issue of contempt in this case.[3] Solis further contends the court did not have the authority to act as a "tribunal in a court of record." The record offers no support for the assertion that the trial court did not have the authority to rule on defendants' demurrer or to dismiss Solis's complaint.

B. Defendants Were Not Required to Have Possession of the Original Promissory Note or a Beneficial Interest in the Note and Deed of Trust to Initiate Non-Judicial Foreclosure Proceedings

Solis's complaint is based almost entirely on allegations that defendants did not "prove ownership," they could not show they possessed the note, and they therefore had no authority to initiate foreclosure proceedings.[4] On appeal, Solis has further asserted the complaint details her efforts "to find the actual owner of the alleged loan," and suggests defendants are not "the actual owners of said loan." Solis asserts defendants' "inability to provide the appellant with that actual ownership of the loan is negligence the law to show [*sic*] that the lenders [*sic*] assignment is improper the promissory note and the Deed

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[3] After the trial court sustained the demurrer, Solis filed a "motion for contempt" in which she asserted the trial court was in "either civil contempt or criminal contempt[.]" The motion made a number of allegations, including that Solis did not receive notice of any motions, the trial court did not have authority to make a tentative order, and the court "acted in the rules of a foreign court." This "motion" was not the proper way to challenge the trial court's rulings, and did not state any valid basis for challenging the earlier proceedings.

[4] Solis does not address the substance of the trial court ruling in her opening brief. However, in her reply brief, and in response to respondents' detailed and substantive arguments that the trial court properly sustained the demurrer, Solis addresses the validity of each cause of action asserted in the complaint. Although we need not consider arguments raised for the first time in a reply brief, we exercise our discretion to consider Solis's arguments to the extent we are able to understand them.

of Trust are inseparable." In connection with the fraud claim, Solis asserts on appeal: "The respondents were sent several documentations to inquire if there were actual lenders of loan if they were unable to present any type of evidence they've have [*sic*] to cease and desist any and all activities." Solis makes similar claims on appeal to support her cause of action for "promissory note." Thus, Solis's complaint appears based in large part on the argument defendants had no right to foreclose because they did not have physical possession of, or an ownership interest in, the original promissory note.

A recent case, *Debrunner v. Deutsche Bank National Trust Co.* (2012) 204 Cal.App.4th 433 (*Debrunner*), considered and rejected this argument. In *Debrunner*, the appellant, a private investor, extended a loan to the debtor, secured by a deed of trust on a home. (*Id.* at p. 436.) The debtor was already a trustor on a first deed of trust on the property and had borrowed money from Quick Loan Funding, Inc (Quick Loan). The trustee was Chicago Title Company. Quick Loan assigned the deed of trust and promissory note to Option One Mortgage Corporation, which assigned both interests to FV-1, Inc. FV-1, Inc. assigned the deed of trust to Deutsche Bank, with Saxon Mortgage Services, Inc. (Saxon) acting as "attorney in fact." (*Ibid.*) Appellant filed a notice of default and foreclosed. But before the foreclosure sale was completed, the servicer of the first-position loan filed a notice of default. Following a delay because of bankruptcy proceedings, the foreclosure trustee with respect to the first deed of trust, Old Republic Default Management Services (Old Republic), recorded a new notice of default on the property and named Deutsche Bank as the creditor and Saxon as the "attorney in fact." The same day the assignment from FV-1 from Deutsche Bank was recorded, the county also recorded a substitution of trustee from Chicago Title Company to Old Republic, which was signed and notarized by Saxon on behalf of Deutsche Bank. (*Id.* at pp. 436-437.)

The appellant attempted to stop the foreclosure and claimed that Deutsche Bank, Saxon, and Old Republic did not have the right to foreclose because Deutsche Bank did not have physical possession of or ownership rights to the original promissory note. (*Debrunner, supra,* at p. 437.) The trial court sustained a demurrer to the complaint

without leave to amend. (*Id.* at p. 438.) On appeal, the appellant claimed the assignment to Deutsche Bank was invalid and a promissory note had to be produced to effectuate a foreclosure. (*Id.* at p. 439.) He argued "no foreclosure of a deed of trust is valid unless the beneficiary is in possession of the underlying promissory note. Without such possession, the deed of trust is 'severed' from the promissory note and consequently is of no effect." (*Id.* at p. 440.)

The appellate court rejected this argument. The court explained that "nonjudicial foreclosure[s] are governed by [Civil Code] sections 2924 through 2924k, which do not require that the note be in possession of the party initiating the foreclosure" and the court saw "nothing in the applicable statutes that precludes foreclosure when the foreclosing party does not possess the original promissory note." (*Debrunner, supra,* at p. 440.) The court further noted that Civil Code section 2924, subdivision (a)(1) "permits a notice of default to be filed by the 'trustee, mortgagee, or beneficiary, or any of their authorized agents.' The provision does not mandate physical possession of the underlying promissory note in order for this initiation of the foreclosure to be valid." (*Debrunner, supra,* at p 440.)

Moreover, quoting a federal case, the *Debrunner* court noted: " 'There is no stated requirement in California's non-judicial foreclosure scheme that requires a beneficial interest in the Note to foreclose. Rather, the statute broadly allows a trustee, mortgagee, beneficiary, or any of their agents to initiate non-judicial foreclosure. Accordingly, the statute does not require a beneficial interest in both the Note and the Deed of Trust to commence a non-judicial foreclosure sale.' [Citation.]" (*Debrunner, supra,* at p 441.)

Solis's complaint and her additional arguments on appeal depend on the claim that defendants have not proven "ownership," or possession of the promissory note, and they therefore had no authority to initiate foreclosure on the deed of trust. We agree with the court in *Debrunner* that this argument fails. (See also *Osei v. Countrywide Home* Loans (E.D. Cal. 2010) 692 F.Supp.2d 1240, 1250-1251 [rejecting negligence claim based on alleged non-possession or maintenance of the original promissory note]; *Jensen v. Quality Loan Service Corp.* (E.D.Cal. 2010) 702 F.Supp.2d 1183, 1189 [dismissing

declaratory relief claim based on allegation that defendant did not possess promissory note].) We also note that while in her complaint and on appeal Solis frequently focuses on defendants' alleged failure to "prove" the validity of their actions, "a nonjudicial foreclosure is presumed to have been conducted regularly, and the burden of proof rests with the party attempting to rebut this presumption." (*Fontenot v. Wells Fargo Bank, N.A.* (2011) 198 Cal.App.4th 256, 270 (*Fontenot*).) If Solis contended the foreclosure was invalid because defendants did not have legal authority to conduct the sale, the burden rested with her "affirmatively to plead facts demonstrating the impropriety." (*Id.* at p. 270.) With these principles in mind, we briefly turn to each of Solis's asserted causes of action.

C. Negligence

In support of the negligence cause of action, the complaint alleged defendants breached a duty of care they owed to Solis by "acting under the color of law to foreclose on [Solis's] property" and by failing to prove their ownership or interest in the loan. The complaint further alleged that the defendants "acted negligently by continuing to pursue [an] unlawful foreclosure even after being noticed several times to cease all actions." Aside from the conclusory statement that the foreclosure was unlawful, there are no allegations asserted to establish the foreclosure was invalid. The complaint did not state a claim for negligence.

D. Fraud

Similarly, the complaint alleged defendants were liable for fraud because "EMC was collecting and has been trying to collect further payments for a loan they can't prove is valid"; defendants "[have] not legally proven ownership of interest there for trying to collect on a loan that is invalid and fraudulent"; defendants "are fraudulently trying to collect on a loan where they have not proven that they gave consideration for that loan"; "It is illegal for a Bank to lend, borrow, or give credit or consideration for a loan"; "MERS is not authorized to conduct business in the state of California"; defendants knew "MERS could not be a nominee for Mortgage 1st Lending"; defendants proceeded "with a loan that is fraudulent and void since its inception"; defendants "have not shown any

contract where [Solis] owes consideration that they gave to her"; and defendants "proximately committed fraud by trying to act above the law and under the color of law while injuring [Solis]."

"The essential allegations of a cause of action for deceit are representation, falsity, knowledge of falsity, intent to deceive, and reliance and resulting damage (causation). (5 Witkin, Cal. Procedure (5th ed. 2008) Pleading, § 710, p. 125.) '[F]raud must be pled specifically; general and conclusory allegations do not suffice.' [Citation.] The particularity requirement ' "necessitates pleading *facts* which 'show how, when, where, to whom, and by what means the representations were tendered.' " [Citation.] A plaintiff's burden in asserting a fraud claim against a corporate employer is even greater. In such a case, the plaintiff must "allege the names of the persons who made the allegedly fraudulent representations, their authority to speak, to whom they spoke, what they said or wrote, and when it was said or written." ' [Citation.]" (*Hamilton, supra*, 195 Cal.App.4th at p. 1614.)

Solis's complaint did not allege defendants made false representations to her, an intent to deceive, or that Solis relied on any false representations. The complaint also failed to plead any specific facts alleging particular individuals made false representations to Solis. The complaint failed to state a claim for fraud.

E. Intentional Infliction of Emotional Distress

The claim for intentional infliction of emotional distress suffers from similar deficiencies. The elements of a claim for intentional infliction of emotional distress are: " '(1) extreme and outrageous conduct by the defendant with the intention of causing, or reckless disregard of the probability of causing, emotional distress; (2) the plaintiff's suffering severe or extreme emotional distress; and (3) actual and proximate causation of the emotional distress by the defendant's outrageous conduct.' [Citation.]" (*Ess v. Eskaton Properties, Inc.* (2002) 97 Cal.App.4th 120, 129.) Solis's complaint did not allege facts sufficient to state this claim. The complaint alleged defendants did not show they had an interest in her loan, they did not have such interest, they tried to collect an invalid loan, and they did not have authority to initiate foreclosure proceedings.

However, the complaint admits Solis sought and received a real estate loan. There are no allegations explaining how this loan was invalid. The complaint alleged no facts showing defendants did not have an interest in the loan, and instead attached and referenced exhibits that, on their face, purport to show the opposite. None of the complaint's allegations described extreme or outrageous conduct; a lawful foreclosure cannot be considered extreme or outrageous. The complaint alleged Solis was "emotionally distressed by EMC & Quality's constant Harassment by mail and Phone." However, there are no other allegations explaining this statement. Outrageous conduct for purposes of an intentional infliction of emotional distress claim is conduct " 'so extreme as to exceed all bounds of that usually tolerated in a civilized community.' [Citation.] An assertion of legal rights in pursuit of one's own economic interests does not qualify as 'outrageous' under this standard. [Citations.]" (*Yu v. Signet Bank/Virginia* (1999) 69 Cal.App.4th 1377, 1398.)

F. "Promissory Note"

The complaint asserted a cause of action entitled "promissory note." It is unclear what claim this was intended to be. However, the allegations accompanying the "promissory note" heading were focused on defendants' lack of possession of, or ownership interest in, the original promissory note. As explained above, this is not a valid legal theory of liability. In her reply brief, Solis asserts a number of arguments related to MERS. As we understand her argument, Solis contends MERS, as a nominee of the beneficiary, did not have the authority to assign the promissory note underlying the deed of trust. This argument was rejected in *Fontenot, supra,* 198 Cal.App.4th 256.

In *Fontenot*, the plaintiff gave Alliance Bancorp a promissory note secured by a deed of trust in real property. MERS was identified as the nominee of the lender in the deed of trust. (*Fontenot, supra,* at p. 260.) Another entity served the plaintiff with a notice of default. Subsequently, MERS assigned the deed of trust to HSBC Bank USA, N.A. (*Ibid.*) Wells Fargo later foreclosed on the property and sold it. (*Id.* at pp. 260-261.) The plaintiff's complaint alleged "MERS was not the 'true' beneficiary under the deed of trust, never had ownership of the promissory note, and never held an assignable

interest in the note or deed of trust. As a result, any assignment of the note by MERS to HSBC was invalid. In addition, plaintiff alleged the 'trustee substitution' was 'invalid due to the fact that the transmission of any interest in Plaintiff's note from MERS is void.'"[5] (*Id.* at p. 262.) The trial court sustained MERS's demurrer to the complaint without leave to amend. (*Id.* at p. 263.)

The court of appeal rejected the plaintiff's arguments relating to MERS. The court explained that "the lack of a possessory interest in the note did not necessarily prevent MERS from having the authority to assign the note. While it is true MERS had no power *in its own right* to assign the note, since it had no interest in the note to assign, MERS did not purport to act for its own interests in assigning the note. Rather, the assignment of deed of trust states that MERS was acting as nominee for the lender, which *did* possess an assignable interest. A 'nominee' is a person or entity designated to act for another in a limited role—in effect, an agent. [Citations.] The extent of MERS's authority as a nominee was defined by its agency agreement with the lender, and whether MERS had the authority to assign the lender's interest in the note must be determined by reference to that agreement. [Citations.] Accordingly, the allegation that MERS was merely a nominee is insufficient to demonstrate that MERS lacked authority to make a valid assignment of the note on behalf of the original lender." (*Fontenot, supra,* at pp. 270-271, fn. omitted.) This reasoning is equally applicable here.

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5 The *Fontenot* court explained MERS: "MERS is a private corporation that administers a national registry of real estate debt interest transactions. Members of the MERS System assign limited interests in the real property to MERS, which is listed as a grantee in the official records of local governments, but the members retain the promissory notes and mortgage servicing rights. The notes may thereafter be transferred among members without requiring recordation in the public records. [Citation.] [¶] Ordinarily, the owner of a promissory note secured by a deed of trust is designated as the beneficiary of the deed of trust. [Citation.] Under the MERS System, however, MERS is designated as the beneficiary in deeds of trust, acting as 'nominee' for the lender, and granted the authority to exercise legal rights of the lender." (*Fontenot, supra,* 198 Cal.App.4th at p. 267.)

The *Fontenot* court also rejected an argument Solis makes here, namely that MERS could not act both as a nominee for the beneficiary and as the beneficiary. As the court explained: "Contrary to plaintiff's assertion, the deed of trust did *not* designate MERS as both beneficiary of the deed of trust and nominee for the beneficiary; rather, it states that MERS is the beneficiary, acting as a nominee for the lender. There is nothing inconsistent in MERS's being designated both as the beneficiary and as a nominee, i.e., agent, for the lender. The legal implication of the designation is that MERS may exercise the rights and obligations of a beneficiary of the deed of trust, a role ordinarily afforded the lender, but it will exercise those rights and obligations only as an agent for the lender, not for its own interests. Other statements in the deed of trust regarding the role of MERS are consistent with this interpretation, and there is nothing ambiguous or unusual about the legal arrangement." (*Fontenot, supra,* at p. 273.)

As in *Fontenot,* Solis has not alleged any facts to support a claim that the foreclosure was invalid because MERS did not have the authority to assign the lender's interest in the original promissory note.

G. Rescission and Declaratory Relief

In support of the rescission cause of action, the complaint alleged defendants had no authority to act if they could not prove legal ownership of "the loan," and "[t]he existence of fraud, false representation, negligence, impossibility of performance, and non-production of the original Documents by [defendants] are grounds for rescission or cancellation of the alleged loan." The complaint demanded that "all documents clouding the title of [her] property to be rescinded . . . ." But the complaint offered no additional allegations to support this claim. Solis has not alleged facts sufficient to state a claim for fraud, thus she has no legal basis to seek rescission as a remedy. Similarly, the complaint sought declaratory relief based on defendants' alleged inability to "prove any ownership and/or interest" in the property. For the reasons explained above, this allegation does not state a claim. The complaint did not set forth a viable basis for declaratory relief.

II. The Trial Court Did Not Abuse its Discretion in Sustaining the Demurrer Without Leave to Amend

Solis asserts the trial court should have granted her leave to amend her complaint. "When a demurrer is sustained without leave to amend, 'we decide whether there is a reasonable possibility that the defect can be cured by amendment: if it can be, the trial court has abused its discretion and we reverse; if not, there has been no abuse of discretion and we affirm.' [Citation.] Plaintiff has the burden to show a reasonable possibility the complaint can be amended to state a cause of action. [Citation.]" (*Hamilton, supra*, 195 Cal.App.4th at p. 1609.)

At the hearing on the demurrer, Solis indicated she had no additional facts to add to the complaint, stating everything was already pled. On appeal, Solis does not assert she has any additional facts to support a valid claim. Solis continues to argue defendants did not prove up their ownership of the promissory note or a valid interest that would permit them to initiate foreclosure proceedings. She has not demonstrated how her pleading can be amended to state a viable claim. The trial court did not abuse its discretion in sustaining the demurrer without leave to amend.

DISPOSITION

The judgment is affirmed. Each party to bear its own costs on appeal.

BIGELOW, P. J.

We concur:

FLIER, J. YEGAN, J.*

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* Assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.